

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

99-CR-6072L
05-CV-6521L

v.

ROLAND ONAGHINOR,

Defendant.

Defendant Roland Onaghinor was convicted of conspiracy to distribute heroin. On May 16, 2002, defendant was sentenced to 78 months imprisonment.

On October 3, 2005, acting *pro se*, Onaghinor filed this motion pursuant to 28 U.S.C. § 2255. At the time the petition was filed, Onaghinor's direct appeal to the Second Circuit was pending.

In a decision dated January 30, 2007, the Second Circuit affirmed this Court's decision declining to resentence defendant under the procedures announced in *United States v. Crosby*, 397 F.3d 103 (2d Cir. 2005).

In the Second Circuit's decision, the Circuit noted that defendant Onaghinor has served his sentence and has been deported. The Second Circuit determined that in light of the deportation, Onaghinor's appeal was moot based on the fact that he had served his sentence, has been convicted


of a drug crime and there is virtually no chance that he would be legally returned to the United States.

For the same reasons, I find that Onaghinor's petition under 28 U.S.C. § 2255 is also moot and should be dismissed.

CONCLUSION

The petition of Roland Onaghinor to vacate and correct the Judgment and Sentence filed October 3, 2005 (Dkt. #248) pursuant to 2255 is in all respects dismissed.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
February 8, 2007